



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 7, 1998

Ms. E. Cary Grace
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR98-1593

Dear Ms. Grace:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116441.

The City of Houston received a request for a copy of an arrest and incident report. You indicate that the city has provided the requestor with the basic, front page incident and arrest information. However, you assert that the remaining portions of the report are protected from disclosure under section 143.089(g) of the Local Government Code in conjunction with section 552.101 of the Government Code and section 552.108.

Section 552.101 of the Government Code protects from disclosure information that is made confidential by law. Section 143.089 of the Local Government Code provides for two types of personnel records: (1) a civil service file, which is generally public, and (2) an internal file that is confidential. You assert that the police report at issue is maintained in the police department's internal file, as provided for in section 143.089(g):

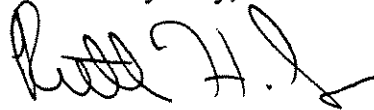
A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

In *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied), the court determined that section 143.089(g) makes confidential any records kept in the internal file. As you inform this office that the report at issue is maintained in the

section 143.089(g), internal file as part of an ongoing investigation, we agree that the report is confidential and may not be disclosed to the requestor.¹ As the information is confidential under section 143.089(g), we need not address your section 552.108 argument.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 116441

Enclosures: Submitted documents

cc: Mr. Stephen Dean
KTRH Newsradio
510 Lovett
Houston, Texas 77006
(w/o enclosures)

¹We assume that the police department has followed the procedural requirement in section 143.089 of referring the requestor to the Houston Civil Service Commission's director or the director's designee.